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Appl. No. 09/874,853
Docket No. 8552
Submission of Amendment with Filing of RCE dated 4/23/2007
Customer No. 27752

REMARKS

Claim Status

Claims 27, and 37-54 are now pending. Claim 27 is amended. Claims 37-54 are new. Claims 1-26 and 28-38 are canceled. No additional claims fee is believed to be due, but the authority is provided to charge any necessary fees to Applicant's deposit account 16-2480.

Claim Rejections Under 35 U.S.C §101; §112

Applicant respectfully submits the claim amendments overcome the rejections in view of §§ 101 and 112.

Claim Rejections Under 35 U.S.C §102 - Blinn

Applicant respectfully submits the claim amendments also overcome the rejection in view of § 102(b) over U.S. Patent No. 6,058,373 issued to Blinn, et al. (referred to hereinafter as "Blinn"). In particular, Applicant highlights the statements made in the Action with regard to claim 34 (now canceled). The Action at page 15 states, in the relevant part, that "Blinn discloses ... comprising the step of manipulating at least one of the characteristics of said product include *price*, packaging, orientation, arrangement, shelf positioning and aisle position" citing col. 3, line 37 – col. 4, line 14. (Emphasis added) Presumably, the Action is specifically referring to the term "price" since the term is mentioned at col. 3, line 61 and col. 4, line 4 of Blinn. The term "price" is now no longer is reflected in the claims, but rather the identifiable characteristic of the product is chosen from packaging of the product, location of the product on a store shelf, arrangement of the product with respect to other products, or combinations thereof. As such, Applicant submits that the claimed invention is now patentable over Blinn.

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Conclusion

In light of the above remarks, it is requested that the Office reconsider and withdraw the rejections under 35 U.S.C. 101, 35 U.S.C. 112, and 35 U.S.C. 102(b). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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By 

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April 23, 2007

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